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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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13 NEXTEL OF CALIFORNIA, INC., NEXTEL
SYSTEMS CORPORATION dba NEXTEL LEASING
14 SYSTEMS CORPORATION, NEXTEL
OPERATIONS, INC. and SPRINT
15 COMMUNICATIONS COMPANY, L.P.,
and Specially Appearing Defendant
16 SPRINT NEXTEL CORPORATION

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 WESTERN DIVISION

20 ERIC HERSHLER, on behalf of
21 himself and all others similarly situated,

22 Plaintiff,

23 v.

24 SPRINT NEXTEL CORPORATION, a
Kansas Corporation; NEXTEL OF
25 CALIFORNIA, INC. a Delaware
Corporation; NEXTEL SYSTEMS
26 CORPORATION dba NEXTEL
LEASING SYSTEMS
27 CORPORATION, a Delaware
Corporation, NEXTEL OPERATIONS,
28 INC., a Delaware Corporation, SPRINT

Case No. **CV10-00318**

CLASS ACTION

- (1) **DEFENDANTS' NOTICE OF
REMOVAL OF ACTION; AND**
(2) **DECLARATION OF SCOTT W.
ANDREASEN IN SUPPORT
THEREOF.**

Complaint Filed: December 10, 2009
First Served: December 16, 2009

COPY TO BE CONFORMED

1 COMMUNICATIONS COMPANY,
2 INC., a Delaware Corporation, and
3 DOES 1-50, inclusive,

4 Defendants.

5
6 TO THE ABOVE-CAPTIONED COURT AND TO PLAINTIFF ERIC
7 HERSHLER AND HIS COUNSEL OF RECORD:
8

9
10 PLEASE TAKE NOTICE that defendants NEXTEL OF
11 CALIFORNIA, INC., NEXTEL SYSTEMS CORPORATION dba NEXTEL
12 LEASING SYSTEMS CORPORATION, NEXTEL OPERATIONS, INC., and
13 SPRINT COMMUNICATIONS COMPANY, L.P. (erroneously named "Sprint
14 Communications Company, Inc."), and specially appearing defendant SPRINT
15 NEXTEL CORPORATION (collectively the "**Sprint Entities**")¹ hereby provide
16 notice of the removal to the United States District Court for the Central District of
17 California, Western Division of the following lawsuit filed on December 10, 2009 in
18 the Los Angeles County Superior Court: *Hershler v. Sprint Nextel Corporation, et*
19 *al.*, Case No. BC427726. The following is a short, plain statement of the grounds
20 for removal. *See* 28 U.S.C. § 1446(a).
21
22
23

24 ¹ Specially appearing defendant SPRINT NEXTEL CORPORATION joins
25 defendants NEXTEL OF CALIFORNIA, INC., NEXTEL SYSTEMS
26 CORPORATION dba NEXTEL LEASING SYSTEMS CORPORATION,
27 NEXTEL OPERATIONS, INC., and SPRINT COMMUNICATIONS
28 COMPANY, L.P. for purposes of removal only, and challenges this Court's
personal jurisdiction over it, the basis of which will be fully set forth in its
MOTION TO DISMISS.

I.

DESCRIPTION OF THE ACTION

On December 10, 2009, plaintiff Eric Hershler, on behalf of himself and "all others similarly situated," filed a complaint against the Sprint Entities in the Los Angeles County Superior Court (the "**State Court Action**"). The claims asserted against the Sprint Entities arise out of alleged false advertising in connection with the marketing of the Sprint Entities' cellular phone service, specifically "Sprint Surcharges."² The COMPLAINT alleges causes of action for (1) violation of California's FALSE ADVERTISING LAW, CAL. BUS. & PROF. CODE § 17500 *et seq.*; (2) violation of CALIFORNIA'S UNFAIR COMPETITION LAW, CAL. BUS. & PROF. CODE § 17200 *et seq.*; (3) violation of California's CONSUMER LEGAL REMEDIES ACT, CAL. CIV. CODE § 1770 *et seq.*; (4) Unjust Enrichment; and (5) Breach of Contract. *See* COMPLAINT ¶¶ 23-54. Plaintiff Hershler purports to act on behalf of a putative California plaintiff class of consumers who have purchased wireless service and were charged "Sprint Surcharges" within the four years prior to the filing of this lawsuit. *See* COMPLAINT ¶ 14. The nature of the action is more fully stated in the COMPLAINT, a copy of which is attached hereto as part of **EXHIBIT A**.

The COMPLAINT seeks (1) injunctive relief; (2) monetary relief from the Sprint Entities in the form of restitution and disgorgement of profits; (3) an accounting for all profits derived from the Sprint Entities' business practices alleged;

² "Sprint Surcharges" are rates the Sprint Entities allegedly collect from their customers to help defray costs imposed on the Sprint Entities, such as Federal Universal Service charges, regulatory charges, administrative charges, gross receipts charges, and other charges incurred to recover costs associated with governmental programs. "Sprint Surcharges" are not taxes, vary by locale and are subject to change. *See* COMPLAINT ¶ 11.

1 (4) damages; (5) recovery of the plaintiffs' attorneys' fees and costs incurred in this
2 action pursuant to CALIFORNIA CODE OF CIVIL PROCEDURE § 1021.5, CALIFORNIA
3 CIVIL CODE § 1760 *et seq.* (the CONSUMER LEGAL REMEDIES ACT), and the private
4 attorney general doctrine; and (6) certification of the class.

5
6 The first of the Sprint Entities to be served with the SUMMONS and
7 COMPLAINT were defendants NEXTEL OF CALIFORNIA, INC., NEXTEL
8 OPERATIONS, INC., and NEXTEL SYSTEMS CORPORATION dba NEXTEL
9 LEASING SYSTEMS CORPORATION on December 16, 2009. Specially
10 appearing defendant SPRINT NEXTEL CORPORATION was served on
11 December 17, 2009. Defendant Sprint Communications L.P. has not been served
12 with process.

13
14 This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §
15 1332(d) (the 2005 CLASS ACTION FAIRNESS ACT).

16 17 II.

18 **BASIS FOR REMOVAL (DIVERSITY JURISDICTION)**

19 20 A. **Diversity Of Citizenship Exists.**

21
22 This action is between citizens of different States. Plaintiff Hershler
23 alleges that he is a resident of the State of California, and purports to represent a
24 class of "[a]ll California citizens who purchased Sprint wireless service and were
25 charged 'Sprint Surcharges'..." See COMPLAINT, ¶14 (EXHIBIT A hereto). As of
26 the time of filing this NOTICE OF REMOVAL, the Sprint Entities are informed and
27 believe that plaintiff Hershler remains a citizen of the State of California.
28

As of the time of filing of this action, defendants NEXTEL OF CALIFORNIA, INC., NEXTEL OPERATIONS, INC., NEXTEL SYSTEMS CORPORATIONS dba NEXTEL LEASING SYSTEMS CORPORATION and specially appearing defendant SPRINT NEXTEL CORPORATION are incorporated in and have their principal places of business in the following states:

ENTITY	STATE OF INCORPORATION	STATE OF PRINCIPAL PLACE OF BUSINESS
Nextel Of California, Inc	Delaware	Kansas
Nextel Operations, Inc.	Delaware	Kansas
Nextel Systems Corporation dba Nextel Leasing Systems Corporation	Delaware	Kansas
Sprint Nextel Corporation	Kansas	Kansas

Declaration Of Scott W. Andreasen ("Andreasen Decl.") ¶¶ 3, 5. As of the time of filing of this action, defendant SPRINT COMMUNICATIONS COMPANY, L.P. (erroneously named "Sprint Communications Company, Inc.") was and still is a Delaware limited partnership with its principal place of business in Kansas . *Id.* ¶ 4. The general and limited partners of SPRINT COMMUNICATIONS COMPANY L.P. and their citizenship as of the time of filing of this action were, and remain, as follows: US Telecom, Inc. is a Kansas corporation with its principal place of business in the State of Kansas; UCOM, Inc. is a Missouri corporation with its principal place of business in the State of Kansas; Utelcom, Inc. is a Kansas corporation with its principal place of business in the State of Kansas; and Sprint International Communications Corp. is a Delaware corporation with its principal place of business in Kansas. *Id.*

1 The 2005 CLASS ACTION FAIRNESS ACT provides that "[t]he district
 2 courts shall have original jurisdiction of any civil action in which the matter in
 3 controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs,
 4 and is *a class action in which (A) any member of a class of plaintiffs is a citizen of*
 5 *a State different from any defendant*" 28 U.S.C. § 1332(d)(2)(A) (emphasis
 6 added). Thus, only minimal diversity is required; it is sufficient if the plaintiff and
 7 only one defendant are citizens of different states. As a result, the first requirement
 8 for diversity jurisdiction exists because plaintiff Hershler and some of the Sprint
 9 Entities are citizens of different States. See 28 U.S.C. §§ 1332(c)(1)³ and
 10 1332(d)(2)(A).

11
 12 **B. The Amount In Controversy Exceeds \$5,000,000.**

13
 14 In the removal context, the assessment of whether the amount-in-
 15 controversy requirement is satisfied "is not confined to the face of the complaint."
 16 *Valdez v. Allstate Insurance Company*, 372 F.3d 1115, 1117 (9th Cir. 2004). The
 17 appropriate measure of the jurisdictional amount in controversy is "the litigation
 18 value of the case assuming that the allegations of the complaint are true and
 19 assuming a jury returns a verdict for the plaintiff on all claims made in the
 20 complaint." *Jackson v. American Bankers Insurance Co. of Florida*, 976 F. Supp.
 21 1450, 1454 (S.D. Ala. 1997), citing *Burns v. Windsor Insurance Co.*, 31 F.3d 1092,
 22 1096 (11th Cir. 1994). It is not determined by "the low end of an open-ended
 23 claim," but by "a reasonable reading of the value of the rights being litigated."
 24 *Angus v. Shiley, Inc.*, 989 F.2d 142, 146 (3d Cir. 1993); see also *Hart v. Washington*

25
 26
 27 ³ "[A] corporation shall be deemed to be a citizen of any State by which it has
 28 been incorporated and of the State where it has its principal place of business...."

1 *State Apple Advertising Commission*, 432 U.S. 333, 347, 97 S. Ct. 2434, 2443
2 (1977).

3
4 The amount-in-controversy requirement is met here because the
5 aggregate amount in controversy for the alleged class exceeds the \$5 million
6 threshold for diversity jurisdiction under 28 U.S.C. § 1332(d) (the 2005 CLASS
7 ACTION FAIRNESS ACT).

8
9 The COMPLAINT defines the putative class as "[a]ll California citizens
10 who purchased Sprint wireless service and were charged 'Sprint Surcharges'...."
11 COMPLAINT, ¶ 14. While the COMPLAINT does not state an amount in controversy,
12 Plaintiff Hershler approximates that there are at least tens of thousands of class
13 members. COMPLAINT, ¶ 16. Indeed, there are well in excess of a million California
14 citizens who purchased Sprint wireless service and were charged Sprint Surcharges.
15 ANDREASEN DECL. ¶ 8. Given the amount of monthly Sprint Surcharges, "assuming
16 that the allegations of the complaint are true and assuming a jury returns a verdict
17 for the plaintiff on all claims made in the complaint," *Jackson*, 976 F. Supp at 1454,
18 the aggregate amount in controversy for the class would far exceed \$5 million.
19 ANDREASEN DECL. ¶ 8. Thus, the total amount in controversy during the four-year
20 period at issue in Hershler's complaint easily exceeds the \$5 million threshold for
21 federal jurisdiction under the 2005 CLASS ACTION FAIRNESS ACT.

22
23 Finally, as a matter of common sense, Hershler's COMPLAINT meets the
24 amount in controversy requirement. Hershler seeks disgorgement of all Surcharges
25 that Sprint – a major telecommunications company – received over a four-year
26 period from consumers in the most populated state in the United States. It is
27 unimaginable that the amount in controversy is less than \$5 million.

1 As a result, both of the predicates for diversity jurisdiction under 28
2 U.S.C. § 1332(d)—diversity of citizenship and more than \$5 million in
3 controversy—exist.

4
5 **III.**

6 **THE NOTICE OF REMOVAL IS PROCEDURALLY PROPER**

7
8 Based on the foregoing, this action is a civil action over which this
9 Court has original jurisdiction pursuant to 28 U.S.C. § 1332(d), and is one that may
10 be removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446.

11
12 In accordance with the requirements of 28 U.S.C. § 1446(a), a copy of
13 the COMPLAINT and all other papers served on the Sprint Entities in the State Court
14 Action as of the filing of this NOTICE OF REMOVAL are attached hereto as
15 **EXHIBIT A.**

16
17 This NOTICE OF REMOVAL is filed within the time provided by 28
18 U.S.C. § 1446(b) because it has been filed within thirty (30) days after the first of
19 the Sprint Entities were served with a copy of the initial pleading in this action (i.e.,
20 December 16, 2009). All of the Sprint Entities consent to removal.

IV.

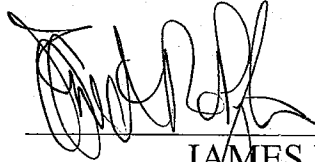
CONCLUSION AND REQUESTED RELIEF

For all of the reasons set forth above, the Sprint Entities respectfully requests that this Court proceed with this matter as if it had been originally filed herein.

Dated: January 15, 2010

SHEPPARD MULLIN RICHTER & HAMPTON LLP

By



JAMES MITTERMILLER

FRED R. PUGLISI

FRANK POLEK

VALERIE E. ALTER

ELIZABETH S. BERMAN

Attorneys for Defendants

NEXTEL OF CALIFORNIA, INC., NEXTEL
SYSTEMS CORPORATION dba NEXTEL

LEASING SYSTEMS CORPORATION,

NEXTEL OPERATIONS, INC., and SPRINT

COMMUNICATIONS COMPANY, L.P.

and Specially Appearing Defendant

SPRINT NEXTEL CORPORATION

DECLARATION

1 **DECLARATION OF SCOTT W. ANDREASEN IN SUPPORT OF**
2 **DEFENDANTS' NOTICE OF REMOVAL**
3
4
5

6 I, Scott W. Andreasen, hereby declare the following:
7

8 1. I am over the age of 18 years and am fully competent to make
9 this declaration.
10

11 2. I hold the position of Assistant Secretary for Sprint Nextel
12 Corporation, Nextel of California, Inc., Nextel Operations, Inc., Nextel Systems
13 Corp. dba Nextel Leasing Systems Corp. and Sprint Communications Company L.P.
14 (the "Sprint Entities"). In my role as Assistant Secretary for the Sprint Entities, I
15 have personal knowledge of the information contained in this declaration based on
16 records available to me as they are kept in the ordinary course of business,
17 information obtained from other employees upon whom I regularly rely in the
18 ordinary course of business, or my general knowledge of the business practices and
19 corporate structure of Sprint Nextel Corporation and its subsidiaries.
20

21 3. As of December 10, 2009, defendants NEXTEL OF
22 CALIFORNIA, INC., NEXTEL SYSTEMS CORPORATION dba NEXTEL
23 LEASING SYSTEMS CORPORATION and NEXTEL OPERATIONS, INC. were,
24 and remain, Delaware corporations with their principal places of business in the
25 State of Kansas.
26
27
28

1 4. As of December 10, 2009, defendant SPRINT
2 COMMUNICATIONS COMPANY L.P. was, and remains, a Delaware limited
3 partnership with its principal place of business in the State of Kansas. As of
4 December 10, 2009, the general and limited partners of SPRINT
5 COMMUNICATIONS COMPANY L.P. and their citizenship were, and remain, as
6 follows: US Telecom, Inc. is a Kansas corporation with its principal place of
7 business in the State of Kansas; UCOM, Inc. is a Missouri corporation with its
8 principal place of business in the State of Kansas; Utelcom, Inc. is a Kansas
9 corporation with its principal place of business in the State of Kansas; and Sprint
10 International Communications Corporation is a Delaware corporation with its
11 principal place of business in Kansas.

12
13 5. As of December 10, 2009, specially appearing defendant
14 SPRINT NEXTEL CORPORATION was and still is a Kansas corporation with its
15 principal place of business in the State of Kansas.

16
17 6. Sprint's Information Technology Department manages Sprint's
18 computerized billing records. These records are maintained by Sprint in the
19 ordinary course of its business and are relied on by Sprint to conduct its operations
20 throughout the United States, including the State of California.

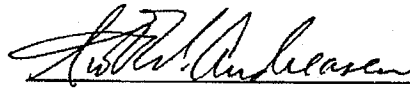
21
22 7. Sprint's Information Technology Department has examined
23 Sprint's billing records in order to obtain certain information relating to Sprint's
24 wireless customers with billing addresses in the State of California.

25
26 8. Between December 10, 2005 and the present, Sprint had more
27 than a million wireless customers in the State of California who were assessed
28 monthly surcharges. Simply multiplying the total number of putative class members

1 by a typical monthly surcharge leads to an aggregate amount in controversy far in
2 excess of \$5 million.

3
4 I declare under penalty of perjury under that the foregoing is true and
5 correct.

6
7 Executed on January 15, 2010 at Overland Park, Kansas.

8
9 

10 Scott W. Andreasen
11
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Exhibit A

SUMMONS (CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT: SPRINT NEXTEL CORPORATION, a (AVISO AL DEMANDADO): Kansas Corporation, NEXTEL OF CALIFORNIA, INC., a Delaware Corporation, NEXTEL SYSTEMS CORPORATION dba NEXTEL LEASING SYSTEMS CORPORATION, a Delaware Corporation, NEXTEL OPERATIONS, INC., a Delaware Corporation) SPRINT COMMUNICATIONS COMPANY, INC., a Delaware Corporation, and DOES 1-50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF: ERIC HERSHLER, on (LO ESTÁ DEMANDANDO EL DEMANDANTE: behalf of himself and all others similarly situated,

FOR COUNTY USE ONLY
SOLO PARA USO DE LA CORTE
**CONFORMED COPY
OF ORIGINAL FILED**
Los Angeles Superior Court

DEC 10 2009

John A. Clarke, Executive Officer/Clerk
By Dawn Alexander Deputy
DAWN ALEXANDER

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory fee for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's fee must be paid before the court will dismiss the case. (AVISO: Le han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información o continuación.)

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandado. Una corte o una llamada telefónica no lo protegen. Su respuesta por escrito debe que esté en formato legal correcto al darse que procesen su caso en la corte. Se permite que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de solicitud de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov) o póngase en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos cuando por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibido mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tenga que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT
111 N. Hill Street
Los Angeles, CA 90012

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es:

Michael Louis Kelly (SEE 82062)
KIRTLAND & PACKARD
2361 Rosecrans Avenue
El Segundo, CA 90245

DATE:

(Fecha)

Clerk, by

(Secretario)

DAWN ALEXANDER

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify): Nextel Operations, Inc.
under: ☐ CCP 418.10 (corporation) ☐ CCP 418.00 (minor)
☐ CCP 418.20 (defunct corporation) ☐ CCP 418.70 (conservatee)
☐ CCP 418.40 (association or partnership) ☐ CCP 418.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date): 12-16-09

Page 1 of 1

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 (Rev. July 1, 2009)

SUMMONS

Legal
Services
in
File

Code of Civil Procedure §§ 413.26, 415

EXHIBIT A PAGE 1

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LAW OFFICES

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mlk@kirtlandpackard.com
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bvp@kirtlandpackard.com
3 Heather M. Peterson - State Bar No. 261303
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4 KIRTLAND & PACKARD LLP
2361 Rossmore Avenue, Fourth Floor
5 El Segundo, California 90245
Telephone: (310) 536-1000
6 Facsimile: (310) 536-1001

7 *Counsel for Plaintiff*
8 *and all others similarly situated*

**CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court**

DEC 10 2009

John A. Gatta, Executive Officer/Clerk
By Dawn Alexander Deputy
DAWN ALEXANDER

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

12 **ERIC HERSHLER**, on behalf of himself and all
13 others similarly situated,

14 **Plaintiff,**

15 **v.**

16 **SPRINT NEXTEL CORPORATION**, a Kansas
Corporation, **NEXTEL OF CALIFORNIA,**
17 **INC.**, a Delaware Corporation, **NEXTEL**
18 **SYSTEMS CORPORATION** aka **NEXTEL**
LEASING SYSTEMS CORPORATION, a
Delaware Corporation, **NEXTEL**
19 **OPERATIONS, INC.**, a Delaware Corporation,
20 **SPRINT COMMUNICATIONS COMPANY,**
INC., a Delaware Corporation, and **DOCS 1-50,**
inclusive,

21 **Defendants.**

Case No.

BC 427726

CLASS ACTION

COMPLAINT FOR:

1. California False Advertising Act,
California Business & Professions Code §
17500 et seq.
2. California Unfair Competition Law,
California Business & Professions Code §
17200 et seq.
3. California Consumer Legal Remedies Act,
California Civil Code § 1770 et seq.
4. Unjust Enrichment
5. Breach of Contract

JURY TRIAL DEMANDED

BY FAX

01204-0001 0127200.01

COMPLAINT

1 Plaintiff Eric Hershler, on behalf of himself and all others similarly situated, allege as
 2 follows. Plaintiff's allegations are based on the investigation of counsel, and thus on information
 3 and belief, except as to the individual actions of Plaintiff, as to which Plaintiff has personal
 4 knowledge.

5 **THE PARTIES**

6 1. Plaintiff Eric Hershler is a citizen of California. He purchased cellular service through
 7 Sprint in Los Angeles County, California, was subject to undisclosed surcharges
 8 complained of herein, and has suffered damage thereby.

9 2. Defendant SPRINT NEXTEL CORPORATION, is a Kansas corporation and holding
 10 company, doing business through various divisions and subsidiaries in Los Angeles
 11 County, throughout California, and throughout the United States.

12 3. Defendants NEXTEL OF CALIFORNIA, INC., NEXTEL SYSTEMS CORPORATION
 13 dba NEXTEL LEASING SYSTEMS CORPORATION, NEXTEL OPERATIONS, INC.,
 14 and SPRINT COMMUNICATIONS COMPANY, INC., are all subsidiaries of Sprint
 15 Nextel Corp., are Delaware corporations, and are licensed to business, and are doing
 16 business, in California.

17 4. Plaintiff does not know the true names or capacities of the persons or entities sued herein as
 18 DOES 1-50, inclusive, and therefore sue such Defendants by such fictitious names.
 19 Plaintiff is informed and believes, and upon such information and belief alleges, that each
 20 of the DOE Defendants is in some manner legally responsible for the damages suffered by
 21 Plaintiffs and the members of the class as alleged herein. Plaintiff will amend this
 22 complaint to set forth the true names and capacities of these Defendants when they have
 23 been ascertained, along with appropriate charging allegations, as may be necessary.

24 5. Sprint Nextel Corporation, it's subsidiary defendants, and DOE defendants are collectively
 25 referred to herein as "Defendants" and/or "Sprint."

26 **JURISDICTION AND VENUE**

27 6. This Court has jurisdiction over all causes of action asserted herein under the California
 28 constitution.

LAW OFFICES
KIRTLAND & PACKARD LLP

7. Venue is proper in this County under California Civil Code § 1780(d) because this is a county in which Defendants do business and in which the transactions complained of took place.

8. Defendants and other out of state participants can be brought before this Court pursuant to California's "long-arm" jurisdictional statute.

FACTUAL ALLEGATIONS

9. Sprint, under various trade names, sells wireless telephone service to consumers through retail stores, and on-line through its website www.sprint.com.

10. Although Sprint discloses to potential consumers the monthly charge for its services, once consumers receive their bill, added on to such monthly charges are "Sprint Surcharges," the details and amounts of which are not disclosed in Sprints' advertising nor disclosed as part of the initial contract which Plaintiff and Class members agreed to.

11. These "Sprint Surcharges" are defined by Sprint to be:

rates we *choose* to collect from you to help defray costs imposed on us. Surcharges are not taxes or amounts we are required to collect from you by law. Surcharges may include: Federal USF, regulatory charges, administrative charges, gross receipts charges, and other charges incurred to recover costs associated with governmental programs. *The amounts, and the components used to calculate Surcharge amounts, are subject to change.*

(emphasis added).

12. Sprint's failure to disclose the details and amounts of these charges, which can add 10-20 percent to the total monthly bill charged to a consumer, as well as Sprint's unilateral changing of the amounts and the components use to calculate such amounts, is in violation of California law and results in consumers paying amounts significantly in excess to which they agreed when signing up for Sprint service.

13. Sprint further enforces these unjust surcharges by charging early termination fees to any consumer who chooses to terminate their service rather than continue to pay these

undisclosed Surcharges.

CLASS ACTION ALLEGATIONS

14. This action is properly maintainable as a class action. Plaintiff brings this class action for injunctive relief and damages on behalf of the following class:

All California citizens who purchased Sprint wireless service and were charged "Sprint Surcharges," within the four years prior to the date of filing this Complaint (the "Class").

15. Excluded from the class are governmental entities, Defendants, any entity in which Defendants have a controlling interest, and Defendants' officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from the Class is any judge, justice or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

16. **Numerosity:** The proposed Class is so numerous that individual joinder of all its members is impracticable. Due to the nature of the trade and commerce involved, Plaintiff believes that the total number of Class members is at least in the tens of thousands and members of the Class are numerous and geographically dispersed across California. While the exact number and identities of the Class members are unknown at this time, such information can be ascertained through appropriate investigation and discovery. The disposition of the claims of the Class members in a single class action will provide substantial benefits to all parties and to the Court.

17. **Common Question of Law and Fact Predominate:** There are many questions of law and fact common to the representative Plaintiff and the Class, and those questions substantially predominate over any questions that may affect individual Class members. Common questions of fact and law include, but are not limited to, the following:

- i. Whether Defendants charge consumers Sprint Surcharges;
- ii. Whether Defendants fail to disclose the details and amounts of such Surcharges in their advertising;
- iii. Whether Defendants fail to disclose the details and amounts of such

LAW OFFICES
KIRTLAND & PACKARD LLP

1 Surcharges at the time consumers enter into agreements for wireless service
2 through Sprint;

3 iv. Whether Defendants charge consumers early termination fees if consumers
4 choose to terminate their service rather than pay these Surcharges; and

5 v. Whether Defendants' conduct is protected activity.

6 18. These common questions of law and fact predominate over questions that may affect
7 individual Class members in that the claims of all Class members for each of the claims
8 herein can be established with common proof. Additionally, a class action would be
9 "superior to other available methods for the fair and efficient adjudication of the
10 controversy," because (1) Class members have little interest in individually controlling the
11 prosecution of separate actions because the individual damages claims of each Class
12 member are not substantial enough to warrant individual filings; (2) Plaintiff is not aware
13 of other lawsuits against Defendants commenced by or on behalf of members of the Class
14 as to this particular issue; and (3) because the disputed actions are common to all Class
15 members and because resolution of the claims of Plaintiff will resolve the claims of the
16 remaining Class, certification does not pose any manageability problems.

17 19. **Typicality:** Plaintiff's claims are typical of the claims of the members of the Class.
18 Plaintiff and all members of the Class have been similarly affected by Defendants' common
19 course of conduct since they all relied on Defendants' representations concerning Sprint's
20 wireless service and the billing and costs associated with such service.

21 20. **Adequacy of Representation:** Plaintiff will fairly and adequately represent and protect the
22 interest of the Class. Plaintiff has retained counsel with substantial experience in handling
23 complex class action litigation. Plaintiff and his counsel are committed to prosecuting this
24 action vigorously on behalf of the Class and have the financial resources to do so.

25 21. **Superiority of Class Action:** Plaintiff and the members of the Class suffered and will
26 continue to suffer harm as a result of Defendants' unlawful and wrongful conduct. A class
27 action is superior to other available methods for the fair and efficient adjudication of the
28 present controversy. Class members have little interest in individually controlling the

prosecution of separate actions because the individual damages claims of each Class member are not substantial enough to warrant individual filings. In sum, for many, if not most, Class members, a class action is the only feasible mechanism that will allow them an opportunity for legal redress and justice.

22. Adjudication of individual class members' claims with respect to the Defendants would, as a practical matter, be dispositive of the interests of other members not parties to the adjudication, and could substantially impair or impede the ability of other class members to protect their interests.

FIRST CAUSE OF ACTION

Business and Professions Code § 17500

(Violation of the False Advertising Act)

(By Plaintiff and the Class against All Defendants)

23. Plaintiff hereby incorporates, as if set forth in full, paragraphs 1-22 above.
24. *Business and Professions Code § 17500* provides that "[i]t is unlawful for any ... corporation ... with intent ... to dispose of ... personal property ... to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated ... from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement ... which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading...."
25. Defendants mislead consumers by making untrue statements and failing to disclose what is required as stated in the Code, as alleged above.
26. As a direct and proximate result of Defendants' misleading and false advertising, Plaintiff and the members of the Class have suffered injury in fact and have lost money or property.
27. The misleading and false advertising described herein presents a continuing threat to Plaintiff and the Class in that Defendants persist and continue to engage in these practices, and will not cease doing so unless and until forced to do so by this Court. Defendants' conduct will continue to cause irreparable injury to Plaintiff and the Class unless enjoined

1 or restrained.

2 **SECOND CAUSE OF ACTION**

3 **Business and Professions Code § 17200, et seq.**

4 **(Violation of the Unfair Competition Law)**

5 **(By Plaintiff and the Class against All Defendants)**

6 28. Plaintiff hereby incorporates, as if set forth in full, paragraphs 1-22 above.

7 29. California Business and Professions Code § 17200, *et seq.*, (the "Unfair Competition Law" or "UCL") authorizes private lawsuits to enjoin acts of "unfair competition" which includes
8 any unlawful, unfair, or fraudulent business practice.
9

10 30. The UCL imposes strict liability. Plaintiff need not prove defendant intentionally or
11 negligently engaged in unlawful, unfair or fraudulent business practices—but only that such
12 practices occurred.

13 31. The material misrepresentations, concealment, and non-disclosures by Defendants as part
14 of their marketing of wireless services, are unlawful, unfair, and fraudulent business
15 practices prohibited by the UCL.

16 32. In carrying out such marketing, Defendants have violated the Consumer Legal Remedies
17 Act, the False Advertising Law, and various other laws, regulations, statutes, and/or
18 common law duties. Defendants' business practices alleged herein, therefore, are unlawful
19 within the meaning of the UCL.

20 33. The harm to Plaintiff, the Class, and members of the public outweighs the utility of
21 Defendants' practices and, consequently, Defendants' practices, as set forth fully above,
22 constitute an unfair business act or practice within the meaning of the UCL.

23 34. Defendants' practices are additionally unfair because they have caused Plaintiff and the
24 Class substantial injury, which is not outweighed by any countervailing benefits to
25 consumers or to competition, and is not an injury the consumers themselves could have
26 reasonably avoided.

27 35. Defendants' practices, as set forth above, have misled the general public in the past and will
28 mislead the general public in the future. Consequently, Defendants' practices constitute a
fraudulent business practice within the meaning of the UCL.

36. Pursuant to Cal. Bus. & Prof. Code § 17204, an action for unfair competition may be brought by any "person . . . who has suffered injury in fact and has lost money or property as a result of such unfair competition." Defendants' wrongful misrepresentations and omissions have directly and seriously injured Plaintiff and the putative class by causing them to contract for wireless service with Defendants based upon false and misleading claims.

37. The unlawful, unfair, and fraudulent business practices of Defendants are ongoing and present a continuing threat that members of the public will be misled into continuing to sign up for wireless service with Defendants.

38. Pursuant to the UCL, Plaintiff and the Class are entitled to preliminary and permanent injunctive relief ordering Defendants to cease this unfair competition, as well as disgorgement and restitution to Plaintiff and the Class of all of Defendant's revenues associated with their unfair competition, or such portion of those revenues as the Court may find equitable.

THIRD CAUSE OF ACTION

Civil Code § 1770, et seq.

(Violation of the Consumer Legal Remedies Act)

(By Plaintiff and the Class against All Defendants)

39. Plaintiff hereby incorporates, as if set forth in full, paragraphs 1-22 above.

40. The Consumer Legal Remedies Act ("CLRA") creates a non-exclusive statutory remedy for unfair methods of competition and unfair or deceptive acts or business practices. See *Reveles v. Toyota by the Bay*, 57 Cal. App. 4th 1139, 1164 (1997). Its self-declared purpose is to protect consumers against these unfair and deceptive business practices, and to provide efficient and economical procedures to secure such protection. Cal. Civil Code §1760. The CLRA was designed to be liberally construed and applied in favor of consumers to promote its underlying purposes. *Id.*

41. More specifically, Plaintiff and the Class allege that Defendants have violated paragraph 9 of Cal. Civ. Code § 1770(a) by engaging in the unfair and/or deceptive acts and practices set forth herein. Defendants' unfair and deceptive business practices in carrying out the

marketing program described above were and are intended to and did and do result in the purchase of Defendants' services by consumers, including Plaintiff and the Class, in violation of the CLRA. Cal. Civil Code § 1770, *et seq.*

42. As a result of Defendants' unfair and/or deceptive business practices, Plaintiff and all purchasers of Defendants' products have suffered damage and lost money in that they paid for products that did not have the benefits as represented. Plaintiff and the Class seek and are entitled to an order enjoining Defendants from continuing to engage in the unfair and deceptive business practices alleged herein.

43. Pursuant to Section 1782 of the CLRA, Plaintiff notified Defendants in writing of the particular violations of Section 1770 of the CLRA (the "Notice Letter"). Defendants have failed to respond to such Notice Letter, much less comply with Plaintiff's demands, within thirty days of receipt of the Notice Letter, pursuant to Section 1782 of the CLRA.

FOURTH CAUSE OF ACTION

Unjust Enrichment

(By Plaintiff and the Class against All Defendants)

44. Plaintiff hereby incorporates, as if set forth in full, paragraphs 1-22 above.

45. Through the conduct described herein, Defendants have received money belonging to Plaintiff and the Class through the collection of Sprint Surcharges, detailed above. In particular, Plaintiff and the Class paid Sprint Surcharges without sufficient disclosure by Defendants and without an obligation to do so.

46. Defendants have reaped substantial profit by misrepresenting and/or concealing the details and amounts of such Surcharges at the time Defendants have advertised their services and/or entered into agreements with Plaintiff and the Class. Defendants have benefitted from the receipt of such money that they would not have received but for their misrepresentation and/or concealment.

47. As a direct and proximate result of Defendants' misconduct as set forth herein, Defendants have been unjustly enriched.

48. Under principles of equity and good conscience, Defendants should not be permitted to keep the money belonging to Plaintiff and the Class that Defendants have unjustly received

as a result of their actions.

FIFTH CAUSE OF ACTION

Breach of Contract

(By Plaintiff and the Class against All Defendants)

49. Plaintiff hereby incorporates, as if set forth in full, paragraphs 1-22 above.

50. Plaintiff and Class members were in a contractual agreement with Defendants to receive cellular phone service at a set monthly rate and this rate was disclosed as part of the initial contract which Plaintiff and the Class agreed to. Plaintiff and the Class were then, in exchange, to pay Defendants money each month for this agreed upon rate.

51. Defendants failed to deliver Plaintiff and the Class cellular telephone service at the agreed upon rate.

52. Defendants breached the contract with Plaintiff and the Class in overcharging for their cellular service by adding Sprint Surcharges that were not agreed to in the initial contract.

53. Defendants' breach of contract proximately caused Plaintiff and Class members to sustain substantial losses in an amount to be proved at trial.

54. Plaintiff provided notice of such breach of contract to Defendants in the Notice Letter that was sent on October 7, 2009.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the class, prays for relief and judgment as follows:

1. For preliminary and permanent injunctive relief enjoining Defendants, its agents, servants and employees, and all persons acting in concert with them, from engaging in, and continuing to engage in, the unfair, unlawful and/or fraudulent business practices alleged above and that may yet be discovered in the prosecution of this action;

2. For certification of the putative class with costs of Notice to be borne by Defendants;

3. For restitution and disgorgement of all money or property wrongfully obtained by Defendants by means of its herein-alleged business practices;

4. For an accounting by Defendants for any and all profits derived by Defendant from

1 their herein-alleged business practices;

2 5. For damages;

3 6. For attorneys' fees and expenses pursuant to all applicable laws including, without
4 limitation, Code of Civil Procedure §1021.5, the CLRA, and the common law private attorney
5 general doctrine;

6 7. For costs of suit; and

7 8. For such other and further relief as the Court deems just and proper.

8 **JURY TRIAL DEMANDED**

9 Plaintiffs demand a jury trial on all triable issues.

10
11 DATED: December 9, 2009

KIRTLAND & PACKARD LLP

12
13
14 By:

Heather Peterson
MICHAEL LOUIS KELLY
BEHRAM V. PAREKH
HEATHER M. PETERSON

Counsel for Plaintiffs and Class

AFFIDAVIT OF ERIC HERSHLER

I, Eric Hershler, submit this affidavit pursuant to §1780(d) of the Consumers Legal Remedies Act and declare the following:

1. I am a Citizen of the State of California, and am one of the named plaintiffs in the Complaint filed herewith.

2. Los Angeles County, California is a proper place for trial of this matter because it is a county in which Defendant Sprint does business.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed this 9 day of December, 2009, at 2009 Los Angeles California.


Eric Hershler

01204-00001 0137289 01

AFFIDAVIT

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKAGE**

[CROC 9-221 Information about Alternative Dispute Resolution]

For additional ADR information and forms visit the Court ADR web application at www.lasuperiorcourty.org (click on ADR).

The plaintiff shall serve a copy of this Information Package on each defendant along with the complaint (Civil only).

What is ADR?

Alternative Dispute Resolution (ADR) is the term used to describe all the other options available for settling a dispute which once had to be settled in court. ADR processes, such as arbitration, mediation, neutral evaluation (NE), and settlement conferences, are less formal than a court process and provide opportunities for parties to reach an agreement using a problem-solving approach.

There are many different kinds of ADR. All of them utilize a "neutral", an impartial person, to decide the case or help the parties reach an agreement.

Mediation:

In mediation, a neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate

Mediation may be particularly useful when parties have a dispute between or among family members, neighbors, or business partners. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate

Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Arbitration:

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." Binding arbitration means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Nonbinding arbitration means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate

If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Neutral Evaluation:

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate

Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate

Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conferences:

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible resolutions of their dispute. The judge or settlement officer does not make a decision in the case but rather the parties in evaluating the strengths and weaknesses of their cases and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

LOS ANGELES SUPERIOR COURT ADR PROGRAMS**CIVIL:**

- Civil Action Mediation (Governed by Code of Civil Procedure (CCP) sections 1775-1775.15, California Rules of Court, Rules 3.850-3.858 and 3.870-3.878, Evidence Code sections 1110-1120, and Los Angeles Superior Court Rules, chapter 12.)
- Retired Judge Settlement Conference
- Neutral Evaluation (Governed by Los Angeles Superior Court Rules, chapter 12.)
- Judicial Arbitration (Governed by Code of Civil Procedure sections 1141.10-1141.21, California Rules of Court, rules 3.810-3.830, and Los Angeles Superior Court Rules, chapter 12.)
- Eminent Domain Mediation (Governed by Code of Civil Procedure section 1250.422.)
- Civil Harassment Mediation
- Small Claims Mediation

FAMILY LAW (non-consort):

- Mediation
- Forensic Certified Public Accountant (CPA) Settlement Conference
- Settlement Conference
- Nonbinding Arbitration (Governed by Family Code section 2054.)

PROBATE

- Mediation
- Settlement Conference

NEUTRAL SELECTION

Parties may select a mediator, neutral evaluator, or arbitrator from the Court Party Pay Panel or may also exercise privately, at their discretion. If the parties utilize the Pro Bono Mediation or Arbitration Panel, the parties will be assigned on a random basis the name of one neutral who made the case criteria entered on the court's website.

COURT ADR PANELS

- Party Pay Panel** The Party Pay Panel consists of mediators, neutral evaluators, and arbitrators who have achieved a specified level of experience in court-connected cases. The parties (collectively) may be charged \$100.00 per hour for the first three hours of hearing time. Thereafter, the parties may be charged for additional hearing time on an hourly basis at rates established by the neutral if the parties consent in writing.
- Pro Bono Panel** The Pro Bono Panel consists of retired mediators, neutral evaluators, and arbitrators who have not yet gained the experience to qualify for the Party Pay Panel, as well as experienced neutrals who make themselves available pro bono as a way of supporting the judicial system. It is the policy of the Court that all pro bono volunteer mediators, neutral evaluators, and arbitrators provide three hours (ending first per case). Thereafter, the parties may be charged for additional hearing time on an hourly basis at rates established by the neutral if the parties consent in writing.
- Private Neutral** The market rate for private neutrals can range from \$200-\$1,000 per hour.

ADR ASSISTANCE

For assistance regarding ADR, please contact the ADR clerk at the courthouse in which your case was filed.

City	Address	Phone	City	Address	Phone	City	Address	Phone
Antelope	42011 4th St. West	720	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Chatsworth	7425 Foothill Ave.	720	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Corona	2501 W. Chapman Blvd.	902	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Glendale	200 E. Broadway	270	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Long Beach	415 W. Ocean Blvd.	310	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Norwalk	12720 Norwalk Blvd.	306	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Pasadena	300 E. Walnut St.	109	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Pomona	400 Civic Center Plaza	108	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
San Pedro	505 E. Center	200	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Santa Monica	1725 Main St.	200	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Stanley Mosk	111 N. Main St.	113	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Thousand Oaks	525 Main Ave.	100	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101
Van Nuys	8250 Van Nuys Ave.	410	Long Beach	CA 90802	(562) 597-7275	San Pedro	CA 90731	(310) 574-7101

For additional information, visit the Court ADR web application at www.lasuperiorcourt.org (click on ADR).

Partially Funded by the Los Angeles County Dispute Resolution Program

ADR CASE REFERRAL INTAKE (continued)

Case Name:

Case Number:

CASE SELECTION CRITERIA

	CASE TYPE
<input type="checkbox"/>	Arbitration/Trade Regulation
<input type="checkbox"/>	Auto Tort - Personal Injury Property Damage/Wrongful Death (auto only)
<input type="checkbox"/>	Auto Tort - Uninsured Motorist - PIP (auto)
<input type="checkbox"/>	Civil Harassment
<input type="checkbox"/>	Consumer Rights/Defect
<input type="checkbox"/>	Contract - Breach of Real Estate Lease Contract (not insurance, LTD, or wrongful eviction)
<input type="checkbox"/>	Contract - Collections
<input type="checkbox"/>	Contract - Contract/Warranty Breach - Seller/Purchaser (not insurance, fraud, or negligence)
<input type="checkbox"/>	Contract - Contracting Fraud
<input type="checkbox"/>	Contract - Insurance Coverage/Dispute
<input type="checkbox"/>	Contract - Nonpayment Breach of Contract/Warranty (not insurance or fraud)
<input type="checkbox"/>	Contract - Other Breach of Contract/Warranty (not insurance, fraud, or negligence)
<input type="checkbox"/>	Contract - Tortious Interference
<input type="checkbox"/>	Declaratory Relief Only
<input type="checkbox"/>	Employment - Age Discrimination
<input type="checkbox"/>	Employment - Labor Commissioner Appeals
<input type="checkbox"/>	Employment - Other (not covered by statute or public policy/contract dispute)
<input type="checkbox"/>	Employment - Wrongful Termination
<input type="checkbox"/>	Family
<input type="checkbox"/>	Insurance - Policy Only (not insurance coverage)
<input type="checkbox"/>	Non-PIP/DWD Tort - Business/Commercial Tort (not fraud or breach of contract)
<input type="checkbox"/>	Non-PIP/DWD Tort - Civil Rights (not discrimination, false arrest)
<input type="checkbox"/>	Non-PIP/DWD Tort - Defamation (not libel, slander, fraud)
<input type="checkbox"/>	Non-PIP/DWD Tort - Fraud (not contract)
<input type="checkbox"/>	Non-PIP/DWD Tort - Intellectual Property
<input type="checkbox"/>	Non-PIP/DWD Tort - Landlord/Tenant Disputes
<input type="checkbox"/>	Other PIP/DWD Tort - Assault
<input type="checkbox"/>	Other PIP/DWD Tort - Breach of Contract (not insurance, fraud, or negligence)
<input type="checkbox"/>	Other PIP/DWD Tort - Intentional Infliction of Emotional Distress
<input type="checkbox"/>	Other PIP/DWD Tort - Medical Malpractice
<input type="checkbox"/>	Other PIP/DWD Tort - Negligence Liability
<input type="checkbox"/>	Other PIP/DWD Tort - Product Liability (not collection, real estate, or insurance)
<input type="checkbox"/>	Personal & Corporate Bankruptcy
<input type="checkbox"/>	Probate
<input type="checkbox"/>	Real Property - Eminent Domain/Condemnation
<input type="checkbox"/>	Real Property - Foreclosure
<input type="checkbox"/>	Real Property - Quiet Title
<input type="checkbox"/>	Real Property - Wrongful Eviction
<input type="checkbox"/>	Real Property - Other
<input type="checkbox"/>	Securities
<input type="checkbox"/>	Torts - Environmental
<input type="checkbox"/>	Workplace Harassment
<input type="checkbox"/>	Writ of Habeas

Do you need a neutral who accepts cases on short notice? ☐ Yes ☐ No

Jurisdiction Type: ☐ Unlimited ☐ Limited

Language ability needed other than English: _____

ADA Accommodations

- | | |
|--|--|
| <input type="checkbox"/> Accessible parking | <input type="checkbox"/> Accessible entrance |
| <input type="checkbox"/> Accessible elevators | <input type="checkbox"/> Accessible restrooms |
| <input type="checkbox"/> Accessible public phones | <input type="checkbox"/> Accessible listening device |
| <input type="checkbox"/> Accessible table/counters | <input type="checkbox"/> Other (specify): _____ |

Location: Zip Code: _____

City: _____

LAADR 003 (Rev. 07/05) (Pending Approval)
LAED Approved 10-04

Page 2 of 3

ADR CASE REFERRAL INTAKE (continued)

(This Form Must Be Completed In Detail)

Case Names

Case Numbers

ATTORNEY NAME:		ATTORNEY NAME:	
FIRM:		FIRM:	
ADDRESS:		ADDRESS:	
CITY:	STATE: ZIP:	CITY:	STATE: ZIP:
PHONE: ()	FAX: ()	PHONE: ()	FAX: ()
E-MAIL:		E-MAIL:	
ATTORNEY FOR:		ATTORNEY FOR:	
(Party Name)	(Party Name)	(Party Name)	(Party Name)
ATTORNEY NAME:		ATTORNEY NAME:	
FIRM:		FIRM:	
ADDRESS:		ADDRESS:	
CITY:	STATE: ZIP:	CITY:	STATE: ZIP:
PHONE: ()	FAX: ()	PHONE: ()	FAX: ()
E-MAIL:		E-MAIL:	
ATTORNEY FOR:		ATTORNEY FOR:	
(Party Name)	(Party Name)	(Party Name)	(Party Name)
ATTORNEY NAME:		ATTORNEY NAME:	
FIRM:		FIRM:	
ADDRESS:		ADDRESS:	
CITY:	STATE: ZIP:	CITY:	STATE: ZIP:
PHONE: ()	FAX: ()	PHONE: ()	FAX: ()
E-MAIL:		E-MAIL:	
ATTORNEY FOR:		ATTORNEY FOR:	
(Party Name)	(Party Name)	(Party Name)	(Party Name)
ATTORNEY NAME:		ATTORNEY NAME:	
FIRM:		FIRM:	
ADDRESS:		ADDRESS:	
CITY:	STATE: ZIP:	CITY:	STATE: ZIP:
PHONE: ()	FAX: ()	PHONE: ()	FAX: ()
E-MAIL:		E-MAIL:	
ATTORNEY FOR:		ATTORNEY FOR:	
(Party Name)	(Party Name)	(Party Name)	(Party Name)
ATTORNEY NAME:		ATTORNEY NAME:	
FIRM:		FIRM:	
ADDRESS:		ADDRESS:	
CITY:	STATE: ZIP:	CITY:	STATE: ZIP:
PHONE: ()	FAX: ()	PHONE: ()	FAX: ()
E-MAIL:		E-MAIL:	
ATTORNEY FOR:		ATTORNEY FOR:	
(Party Name)	(Party Name)	(Party Name)	(Party Name)
ATTORNEY NAME:		ATTORNEY NAME:	
FIRM:		FIRM:	
ADDRESS:		ADDRESS:	
CITY:	STATE: ZIP:	CITY:	STATE: ZIP:
PHONE: ()	FAX: ()	PHONE: ()	FAX: ()
E-MAIL:		E-MAIL:	
ATTORNEY FOR:		ATTORNEY FOR:	
(Party Name)	(Party Name)	(Party Name)	(Party Name)

To obtain additional case information, visit Case Summaries at www.lasuperiorcourt.org

LACR 008 (Rev. 07/09) (Pending Approval)
LACR Approval 10-00

Page 3 of 3

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		DATE OF FILING	NOTED BY COURT FILED
ATTORNEY FOR PLAINTIFF:			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION (ADR)			COURT NUMBER

The undersigned parties stipulate to participate in an Alternative Dispute Resolution (ADR) process in the above-entitled action, as follows:

- ☐ Mediation
☐ Non-Binding Arbitration
☐ Binding Arbitration
☐ Early Neutral Evaluation
☐ Settlement Conference
☐ Other ADR Process (describe): _____

Dated: _____

Name of Stipulating Party <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Cross-defendant	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney
Name of Stipulating Party <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Cross-defendant	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney
Name of Stipulating Party <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Cross-defendant	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney
Name of Stipulating Party <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Cross-defendant	Name of Party or Attorney Executing Stipulation	Signature of Party or Attorney

☐ Additional signature(s) on reverse

LAADR 001 10-08
 LAXC Approved
 (Rev. 01-07)

STIPULATION TO PARTICIPATE IN
 ALTERNATIVE DISPUTE RESOLUTION (ADR)

Cal. Rules of Court, rule 3.221
 Page 9 of 8

Short Title	Case Number
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Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

Name of Signaling Party
☐ Plaintiff ☐ Defendant ☐ Cross-defendant

Name of Party or Attorney Executing Stipulation

Signature of Party or Attorney

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the Chapter Seven Rules, as applicable in the Central District, are summarized for your assistance.

APPLICATION

The Chapter Seven Rules were effective January 1, 1994. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Chapter Seven Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Individual Calendering Court will be subject to processing under the following time standards:

COMPLAINTS: All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

CROSS-COMPLAINTS: Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned Independent Calender Judge no later than 300 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties at a status conference not more than 10 days before the trial to have timely filed and served all motions to dismiss, bifurcation motions, motions of major evidentiary issues, dispositive motions, requested jury instructions, and special jury instructions and special jury verdicts. Issues matters may be heard and resolved at this conference. At least 5 days before this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Seven Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Seven Rules. Such sanctions may be on a party or if appropriate on counsel for the party.

This is not a complete delineation of the Chapter Seven Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Michael Louis Kelly (SBN 82063) KIRTLAND & PACKARD LLP 2361 Roscomans Avenue Fourth Floor El Segundo, CA 90245 TELEPHONE NO.: (310) 536-1000 FAX NO.: (310) 536-1001 ATTORNEY FOR: <u>Plaintiff and all others similarly sit</u>		FOR COURT USE ONLY CONFIRMED COPY OF ORIGINAL FILED Los Angeles Superior Court DEC 10 2009 John A. Clarke, Executive Officer/Clerk By <u>Dawn Alexander</u> Deputy DAWN ALEXANDER	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: <u>111 N. Hill Street</u> MAILING ADDRESS: CITY AND ZIP CODE: <u>Los Angeles, CA 90012</u> BRANCH NAME: <u>Central</u>		CASE NAME: <u>HERSHLER V. SPRINT NEXTEL CORPORATION, et al.</u>	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
CASE NUMBER: BC 427726		JUDGE: DEPT:	

Items 1-8 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) Other P/DP/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (40) <input type="checkbox"/> Other P/DP/WD (28) Non-P/DP/WD (Other) Tort <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-P/DP/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (00) <input type="checkbox"/> Other collections (08) <input type="checkbox"/> Insurance coverage (16) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/adverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (21) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Will of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Torts tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (37) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries; or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): 5

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related cases (You may skip this question if there are no related cases.)

Date: December 10, 2009

Michael Louis Kelly (SBN 82063)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

BY FAX

- NOTICE**
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
 - File this cover sheet in addition to any cover sheet required by local court rules.
 - If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
 - Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.
- Page 1 of 2

Form Adopted for Mandatory Use
 Judicial Council of California
 CJS-010 (Rev. July 1, 2007)

CIVIL CASE COVER SHEET

Legal
 Solutions
 Co., Plus

Cal. Rules of Court, rules 3.220, 3.221, 3.400-3.403, 3.740;
 Cal. Standards of Judicial Administration, rule 3.10

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort Auto (22)—Personal Injury/Property Damage/Wrongful Death Uninsured Motorist (46) <i>(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i> Other P/PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/Wrongful Death Product Liability (not asbestos or toxic/environmental) (24) Medical Malpractice (45) Medical Malpractice—Physicians & Surgeons Other Professional Health Care Malpractice Other P/PI/PD/WD (23) Premises Liability (e.g., slip and fall) Intentional Bodily Injury/PD/WD (e.g., assault, vandalism) Intentional Infliction of Emotional Distress Negligent Infliction of Emotional Distress Other P/PI/PD/WD Non-P/PI/PD/WD (Other) Tort Business Tort/Unfair Business Practice (07) Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08) Defamation (e.g., slander, libel) (13) Fraud (16) Intellectual Property (19) Professional Negligence (25) Legal Malpractice Other Professional Malpractice (not medical or legal) Other Non-P/PI/PD/WD Tort (35) Employment Wrongful Termination (36) Other Employment (15)	Contract Breach of Contract/Warranty (06) Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence) Negligent Breach of Contract/Warranty Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case—Seller Plaintiff Other Promissory Note/Collections Case Insurance Coverage (not provisionally complex) (18) Auto Subrogation Other Coverage Other Contract (37) Contractual Fraud Other Contract Dispute Real Property Eminent Domain/Inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property (not eminent domain, landlord/tenant, or foreclosure) Unlawful Detainer Commercial (31) Residential (32) Drugs (38) <i>(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i> Judicial Review Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02) Writ—Administrative Mandamus Writ—Mandamus on Limited Court Case Matter Writ—Other Limited Court Case Review Other Judicial Review (39) Review of Health Officer Order Notice of Appeal—Labor Commissioner Appeals	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403) Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims <i>(arising from provisionally complex case type listed above)</i> (41) Enforcement of Judgment Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment (non-domestic relations) Sister State Judgment Administrative Agency Award (not unpaid taxes) Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case Miscellaneous Civil Complaint RICO (27) Other Complaint (not specified above) (42) Declaratory Relief Only Injunctive Relief Only (non-harassment) Mechanics Lien Other Commercial Complaint Case (non-tort/non-complex) Other Civil Complaint (non-tort/non-complex) Miscellaneous Civil Petition Partnership and Corporate Governance (21) Other Petition (not specified above) (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief from Late Claim Other Civil Petition
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CASE TITLE: HERSHLER v. SPRINT NEXTEL CORPORATION, et al.	CASE NUMBER: BC427726
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**CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to LASC Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☒ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 1.0 HOURS/ ☒ DAYS

Item II. Select the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet Form, find the main civil case cover sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Los Angeles Superior Court Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (See Column C below)

- | | |
|---|--|
| 1. Class Actions must be filed in the County Courthouse, Central District.
2. May be filed in Central (Other county, or no Bodily Injury/Property Damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides. | 6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office. |
|---|--|

Step 4: Fill in the information requested on page 4 in item III; complete item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 2, 4.
	Uninsured Motorist (48)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1, 2, 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage	2.
		<input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2.
	Product Liability (24)	<input type="checkbox"/> A7280 Product Liability (not asbestos or toxic/environmental)	1, 2, 3, 4, 5.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1, 2, 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 2, 4.
Other Personal Injury/Property Damage/Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 2, 4.	
	<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 2, 4.	
	<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1, 2, 3.	
	<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 2, 4.	
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input checked="" type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3.
	Civil Rights (06)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3.

BY FAX

SHORT TITLE: HERSHLER v. SPRINT NEXTEL CORPORATION, et al.		CASE NUMBER
A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Wrongful Termination (38)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals.	1., 2., 3. 10.
Breach of Contract/Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not Unlawful Detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer - Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer - Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer - Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.

CIVIL CASE COVER SHEET ADDENDUM

I ASC rule 20.

EXHIBIT A PAGE 26

SHORT TITLE: **HERSHLER v. SPRINT NEXTEL CORPORATION, et al.**

CASE NUMBER

Judicial Review (Cont'd.)

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Writ of Mandate (02)	<input type="checkbox"/> A8151 Writ - Administrative Mandamus <input type="checkbox"/> A8152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A8153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A8150 Other Writ / Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A8003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A8007 Construction defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A8006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A8035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A8038 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A8014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A8141 Sister State Judgment <input type="checkbox"/> A8160 Abstract of Judgment <input type="checkbox"/> A8107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A8140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A8114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A8112 Other Enforcement of Judgment Case	2., 8. 2., 8. 2., 8. 2., 8. 2., 8. 2., 8., 8.
RICO (27)	<input type="checkbox"/> A8033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A8030 Declaratory Relief Only <input type="checkbox"/> A8040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A8011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A8000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance (21)	<input type="checkbox"/> A8113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A8121 Civil Harassment <input type="checkbox"/> A8123 Workplace Harassment <input type="checkbox"/> A8124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A8190 Election Contest <input type="checkbox"/> A8110 Petition for Change of Name <input type="checkbox"/> A8170 Petition for Relief from Late Claim Law <input type="checkbox"/> A8100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

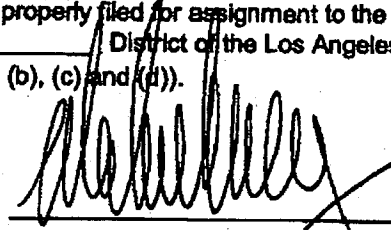
SHORT TITLE: HERSHLER v. SPRINT NEXTEL CORPORATION, et al.	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: CHECK THE NUMBER UNDER COLUMN C WHICH APPLIES IN THIS CASE			ADDRESS:
<input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.	11845 W. Olympic Blvd.		
CITY: Los Angeles	STATE: CA	ZIP CODE: 90064	

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the SUPERIOR COURT OF CALIFORNIA courthouse in the Central District of the Los Angeles Superior Court (Code Civ. Proc., § 392 et seq., and LASC Local Rule 2.0, subds. (b), (c) and (d)).

Dated: December 12, 2009


(SIGNATURE OF ATTORNEY/FILING PARTY)
Michael Louis Kelly

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet form CM-010.
4. Complete Addendum to Civil Case Cover Sheet form LACIV 109 (Rev 01/07), LASC Approved 03-04.
5. Payment in full of the filing fee, unless fees have been waived.
6. Signed order appointing the Guardian ad Litem, JC form FL-935, if the plaintiff or petitioner is a minor under 18 years of age, or if required by Court.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

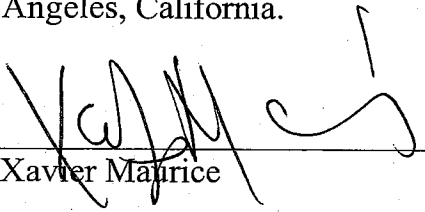
I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 1901 Avenue of the Stars, Suite 1600, Los Angeles, California 90067-6017.

On **January 15, 2010**, I served the following document(s) described as: **(1) DEFENDANTS' NOTICE OF REMOVAL OF ACTION AND; (2) DECLARATION OF SCOTT W. ANDREASEN IN SUPPORT THEREOF** on the interested party(ies) in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

Michael Louis Kelley, Esq.
Behram V. Parekh, Esq.
Heather M. Peterson, Esq.
KIRKLAND & PACKARD LLP,
2361 Rosecrans Avenue, Fourth Floor
El Segundo, California, 90245.

- ☐ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.
- ☒ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the office of the addressee(s).
- ☐ **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 15, 2010, at Los Angeles, California.


Xavier Maurice